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10/692,898	10/24/2003	Kumar Bhaskaran	YOR920030216US1 (16696)	8716
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STEVEN FISCHMAN, ESQ. SCULLY, SCOTT, MURPHY AND PRESSER 400 Garden City Plaza Garden City, NY 11530			CARDENAS NAVIA, JAIME F	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/692,898	<b>Applicant(s)</b> BHASKARAN ET AL.
	<b>Examiner</b> Jaime Cardenas-Navia	<b>Art Unit</b> 3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 July 2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 11,12,17 and 26-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 11, 12, 17, and 26-28 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/1449)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Introduction***

1. This **FINAL** office action is in response to communications received on July 7, 2008. Claims 11, 12, and 17 have been amended. Claims 26 and 27 have been added. Claims 1-10, 13-16, and 18-25 have been cancelled. Claims 11, 12, 17, and 26-28 are pending.

***Response to Amendment***

2. Applicant's amendments to the claims are **sufficient to overcome the objections to the claims** as set forth in the previous office action. However, **new grounds of objections to the claims** have been necessitated by amendment.
3. Applicant's amendments to the claims are **sufficient to overcome all the 35 U.S.C. § 112, second paragraph, rejections** as set forth in the previous office action.
4. Applicant's amendments to the claims are **sufficient to overcome the 35 U.S.C. § 101 rejections** set forth in the previous office action.

***Claim Objections***

5. **Claims 11, 12, and 17 are objected to** because of the following informalities:

**Regarding claim 12,** there is no claim 2 for claim 12 to be dependent on. Examiner believes claim 12 should be amended to be dependent on claim 26.

**Regarding claims 11, 12, and 17,** it is improper for a claim to be dependent on a claim that is numbered after it. Claims 11, 12, and 17 should be cancelled and added as claims listed with a number greater than 26.

For purposes of examination, Examiner has assumed that all necessary corrections have been made.

***Response to Arguments***

6. Applicant's arguments have been fully considered by the Examiner. In particular, Applicant argues regarding independent claims 26-28 that neither El Ata nor Covino teach or suggest:

(1) "business operations modeling further implementing a business level modeling language for formally representing said business operations according to a schema, said schema describing one or more of:

an information sub-model describing artifacts and business events that business tasks exchange including task contexts that hold temporary information needed by a task, business predicates, for modeling constraints for, and relationships between, information sub-model constituents,

a Resource sub-model describing human, automated, or external actors, and their capabilities defined as aggregations of capabilities to perform tasks, and,

a Functional sub-model describing actions in the form of business processes, business tasks and artifact repositories that store the artifacts that the business operates on and establishes a coherence model describing those tasks which operate upon one or more artifacts using one or more kinds of resources, and how those tasks are interconnected through the exchange of artifacts."

or:

(2) "transforming said key performance indicators into IT probes in the IT executable solution model, said probes enabling real-time monitoring and reporting of business process

performance as measured by said key performance indicators defined in the business operation model."

Additionally, Applicant argues that (3) the combination of El Ata and Covino is improper.

**Regarding argument (1),** Examiner respectfully disagrees. Covino clearly teaches: business operations modeling further implementing a business level modeling language for formally representing said business operations according to a schema (par. 135-137, 139), said schema describing one or more of:

an information sub-model describing artifacts and business events that business tasks exchange including task contexts that hold temporary information needed by a task, and business predicates, for modeling constraints for, and relationships between, information sub-model constituents (par. 50, information model collects information related to all managed objects, par. 53, documents are artifacts, tasks are business tasks, information is temporary information, rules are constraints, dependencies, are relationships),

a Resource sub-model describing human, automated, or external actors, and their capabilities defined as aggregations of capabilities to perform tasks (par. 45, agents are actors, collaboration to fulfill tasks), and,

a Functional sub-model describing actions in the form of business processes, business tasks and artifact repositories that store the artifacts that the business operates on and establishes a coherence model describing those tasks which operate upon one or more artifacts using one or more kinds of resources, and how those tasks are interconnected through the exchange of artifacts (par. 16, functions of components (actions) are defined, par. 49, par. 53).

**Regarding argument (2)**, Examiner respectfully disagrees. El Ata clearly teaches: transforming said key performance indicators into IT probes in the IT executable solution model, said probes enabling monitoring and reporting of business process performance as measured by said key performance indicators defined in the business operation model (col. 3, lines 37-44, col. 5, lines 19-25, col. 7, lines 45-47, col. 11, lines 14-20).

El Ata does not *explicitly* teach that the monitoring and reporting is in real-time.

However, Covino overcomes this deficiency by teaching multiple times that *all* processes, such as the probes taught by El Ata, can be monitored and documented in real-time (par. 19, 30, 31). This combination is further validated in the discussion regarding argument (3) below and in the section titled "Claim Rejections - 35 USC § 103".

**Regarding argument (3)**, Examiner respectfully disagrees. The USPTO has issued examination guidelines for determining obviousness under 35 U.S.C. 103 in view of the Supreme Court decision in KSR International Co. v. Teleflex Inc. First an Examiner must complete the basic factual inquiries of Graham v. John Deere Co. Next, seven rationales are provided in 72 Fed. Reg. 57526 (dated October 10, 2007) to determine whether the claimed invention would have been obvious to one of ordinary skill in the art: (A) combining prior art elements according to known methods to yield predictable results; (B) simple substitution of one known element for another to obtain predictable results; (C) use of known technique to improve similar devices (methods, or products) in the same way; (D) applying a known technique to a known device (method, or product) ready for improvement to yield predictable results; (E) "obvious to try"---choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success; (F) known work in one field of endeavor may prompt variations of it for use in either

the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art; and (G) some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention. The MPEP further clarifies that the prior art references must disclose or suggest all of the claimed features. See MPEP 2143.

All obviousness rejections using El Ata and Covino have been performed using rationale (A), combining prior art elements according to known methods to yield predictable results. In the March 4, 2008 Office Action, Examiner stated:

The inventions of El Ata and Covino pertain to modeling business systems and infrastructures. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, as Covino does not teach away from or contradict El Ata, but rather, teaches a function that was not addressed. The claimed invention is merely a combination of old and well-known elements, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Thus, it would have been obvious to combine the teachings, motivated by the advantages of specifically a business level modeling language, as taught by Covino (par. 135, 136).

The fact that the intended use of Covino's invention is for a specific industry is irrelevant, as the architecture taught by Covino is general and could have been combined with the general architecture of El Ata. Thus, the rejections under 35 U.S.C. 103(a) stand.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 11, 12, and 26-28 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Abu El Ata (US 6,990,437 B1) in view of Covino et al. (US 2006/0203732 A1).

**Regarding claim 26**, Abu El Ata teaches a system for creating and managing a business process integration solution comprising:

means for modeling a business strategy including elements representing business measurements and initiatives according to defined business goals and objectives of an entity (col. 4, lines 8-10, 18-26 (criteria are objectives), and 40-41);

means for modeling business operations of said entity in terms of business process elements including process tasks, artifact flows and artifact repositories, said business process element incorporating key performance indicators (col. 4, lines 55-67, col. 5, lines 1-2, performance and cost criteria are key performance indicators, sub processes and functions are tasks, scope identification are artifacts flows, artifact repositories are inherent);

means for modeling business operations of said entity in terms of business process elements, said process elements including process tasks, artifact flows and artifact repositories, and business commitment elements including incorporating key performance indicator metrics (col. 4, lines 55-67, col. 5, lines 1-2, performance and cost criteria are key performance

indicators, sub processes and functions are tasks, scope identification are artifacts flows, artifact repositories are inherent);

means for mapping elements of the business strategy model with artifact and process elements of the business operations model (col. 4, lines 55-65); and

means for measuring business performance and comparing performance against said key performance indicators (col. 3, lines 37-44, col. 5, lines 19-25, col. 7, lines 45-47, col. 11, lines 14-20),

means for transforming business operations model elements into an information technology (IT) solution model comprising business solution artifacts (col. 2, lines 7-11, col. 5, lines 26-29, col. 6, lines 34-36, and col. 7, lines 10-13), said business solution artifacts including one or more selected from the group comprising: business objects representing a business document, material, contract or work product (col. 9, lines 22-31, loan applications are business documents), adaptive business objects that capture state-dependent behavior (col. 9, lines 22-31, loan applications have different states), macroflows that represent interruptible process flows and microflows that represent non-interruptible process flows (col. 9, lines 54-60, critical path contains interruptible and non-interruptible process flows), application adapters that transforms data for and interfaces with application software (col. 10, lines 27-34), business-business connectors that transform data for and interface with external business systems, and portal artifacts for enabling human users to interact with the solution (col. 17, lines 5-7, Fig. 3, col. 9, lines 7-15, Fig. 3);

means for defining details of one or more said business solution artifacts, binding and deploying said business solution artifacts to one or more specific runtime platforms (col. 2, lines 11-13, col. 8, lines 16-21);

means for transforming said key performance indicators into IT probes in the IT executable solution model, said probes enabling monitoring and reporting of business process performance as measured by said key performance indicators defined in the business operation model (col. 3, lines 37-44, col. 5, lines 19-25, col. 7, lines 45-47, col. 11, lines 14-20); and,

means for effecting changes to a business process to improve its performance in view of said monitoring (col. 3, lines 37-44, col. 5, lines 19-25, col. 7, lines 45-47, col. 11, lines 14-20),

wherein said business strategy and operation model process elements are continuously refined over a solution development lifecycle as a result of process measurements and comparing (col. 3, lines 37-44, col. 5, lines 19-25, col. 7, lines 45-47, col. 11, lines 14-20).

Abu El Ata does not expressly teach:

said business operations modeling further implementing a business level modeling language for formally representing said business operations according to a schema, said schema describing one or more of:

an information sub-model describing artifacts and business events that business tasks exchange including task contexts that hold temporary information needed by a task, and business predicates, for modeling constraints for, and relationships between, information sub-model constituents,

a Resource sub-model describing human, automated, or external actors, and their capabilities defined as aggregations of capabilities to perform tasks,

a Functional sub-model describing actions in the form of business processes, business tasks and artifact repositories that store the artifacts that the business operates on and establishes a coherence model describing those tasks which operate upon one or more artifacts using one or more kinds of resources, and how those tasks are interconnected through the exchange of artifacts; and

the monitoring and reporting is in real-time.

Covino teaches:

said business operations modeling further implementing a business level modeling language for formally representing said business operations according to a schema (par. 135-137, 139), said schema describing one or more of:

an information sub-model describing artifacts and business events that business tasks exchange including task contexts that hold temporary information needed by a task, and business predicates, for modeling constraints for, and relationships between, information sub-model constituents (par. 50, information model collects information related to all managed objects, par. 53, documents are artifacts, tasks are business tasks, information is temporary information, rules are constraints, dependencies, are relationships),

a Resource sub-model describing human, automated, or external actors, and their capabilities defined as aggregations of capabilities to perform tasks (par. 45, agents are actors, collaboration to fulfill tasks),

a Functional sub-model describing actions in the form of business processes, business tasks and artifact repositories that store the artifacts that the business operates on and establishes a coherence model describing those tasks which operate upon one or more artifacts using one or

more kinds of resources, and how those tasks are interconnected through the exchange of artifacts (par. 16, functions of components (actions) are defined, par. 49, par. 53), and all processes can be monitored and documented in real-time (par. 19, 30, 31).

The inventions of El Ata and Covino pertain to modeling business systems and infrastructures. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, as Covino does not teach away from or contradict El Ata, but rather, teaches a function that was not addressed. The claimed invention is merely a combination of old and well-known elements, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Thus, it would have been obvious to combine the teachings, motivated by the advantages of specifically a business level modeling language, as taught by Covino (par. 135, 136).

**Regarding claims 27 and 28,** they are rejected using the same art and rationale used above for rejecting claim 26. This is because claims 27 and 28 claim a computer-implemented method and article of manufacture, respectively, performing the method of claim 26.

**Regarding claim 11,** Abu El Ata teaches means for recommending or effecting changes to a business process to improve its performance in view of said business performance measuring means (col. 3, lines 37-44, col. 5, lines 19-25, col. 7, lines 45-47, col. 11, lines 14-20).

**Regarding claim 12,** Abu El Ata teaches wherein said means for measuring and comparing business performance includes a simulation means implementing simulation models in at least one of the strategy, operation, execution and implementation models (col. 6, lines 40-51).

9. **Claim 17 is rejected** under 35 U.S.C. 103(a) as being unpatentable over Abu El Ata (US 6,990,437 B1) in view of Covino et al. (US 2006/0203732 A1), as applied to claim 26, further in view of Cunningham et al. (US 2007/0129953 A1).

**Regarding claims 17,** neither Abu El Ata nor Covino teaches wherein said schema represents resources including roles and resource groups.

Cunningham teaches wherein said schema represents resources including roles and resource groups (par. 41, 44).

The inventions of Abu El Ata, Covino, and Cunningham pertain to business systems and infrastructures. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, as Cunningham does not teach away from or contradict Abu El Ata or Covino, but rather, teaches a function that was not addressed. Additionally, the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Thus, it would have been obvious to combine the teachings, motivated by the well-known advantage of improved information management as taught by Cunningham (par. 4).

***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jaime Cardenas-Navia whose telephone number is (571)270-1525. The examiner can normally be reached on Mon-Fri, 10:30AM - 7:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Van Doren can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

October 1, 2008

/J. C./  
Examiner, Art Unit 3623  
/Jonathan G. Sterrett/  
Primary Examiner, Art Unit 3623